FORD O'BRIEN LANDY LLP

June 4, 2025

By ECF

The Honorable Robert W. Lehrburger
United States Magistrate Judge
United States District Court
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: ***Avalon Holdings Corp. v. Gentile*, No. 18-cv-7291 (DLC) (RJL); *New Concept Energy, Inc. v. Gentile*, No. 18-cv-8896 (DLC) (RJL)**

Dear Judge Lehrburger:

Non-party Ford O'Brien Landy LLP ("FOBL" or the "Firm") respectfully submits this response to the letter filed by Plaintiffs' counsel on June 2, 2025 [ECF 378/346].

The Plaintiffs in this action willfully misconstrue the Firm's letter dated May 29, 2025 [ECF 377/345] and the corresponding email dated May 30, 2025 [ECF 378.2/346.2], which were submitted in compliance with the Court's Order of May 22, 2025 (the "Order") [ECF 376/344]. Contrary to Ms. Tauber's claim, I did not cherry pick three (3) payments out of 12 to disclose to Plaintiffs. Rather, the letter of May 29 identified the wire information associated with each of the three sources ([redacted]), and my email of May 30 listed the dates of transfers from those three sources. Thus, as made clear, there were seven (7) wires from [redacted], four (4) from [redacted], and one (1) from [redacted]. The Firm has provided all information that it has in its records regarding those three wire transfer sources, and therefore "copies of account statements" would not yield any further responsive detail. The Plaintiffs also try to slip in a demand for the "amount of each payment," but that was not information sought in Request No. 21 which only asked "By whom, on what date[s], and using what payment medium?" and "through what bank[s]." This Court ordered FOBL to respond to Request 21, and it has.

With respect to the privilege log that Plaintiffs demand, none is required as the Court has overruled any grounds for such objections. And in any event, Request No. 21 simply asks for the dates, sources and means of each payment, which we have identified. To the extent that Request Nos. 9 and 18 asked for the dates on which Mr. Gentile communicated with our Firm by messaging app, the Requests cannot be answered as neither the Firm nor its partners maintain records reflecting the dates of communications with Mr. Gentile. Nor is such information remotely relevant to Plaintiffs' discovery requests. The Plaintiffs also contend that they are entitled to know the precise "messaging service" used by the Firm to communicate with Mr. Gentile, but that information was not requested in the particular request at issue. *See* Request

No. 18 ("If your answer to #17 is 'yes,' when and by what means of communication?"). That said, we can disclose that Mr. Gentile has used Telegram, WhatsApp and Signal at various times.

Finally, Plaintiffs state that the Firm's response to Request No. 22, which we answered in the body of our letter brief in support of our motion for a protective order, is unsworn. This frivolous argument was already made by Plaintiffs and withdrawn in open court after I read to the Court the "sworn to" language in our responses which should also suffice for the disclosure in our letter to the Court.

If counsel has any further questions regarding these matters, we invite them to call us first to discuss before needlessly involving the Court.

As to the renewed request for a deposition, this Court has ordered that the Plaintiffs meet and confer with the Firm prior to renewing any such request, and make an application to this Court "explaining in detail what information they need to obtain by deposition that they have not already received by answers to the information requests." [ECF 376/344]. This letter application does not satisfy those requirements.

For all these reasons, the Firm respectfully requests that the Court deem the Firm's disclosure obligations under the information subpoenas satisfied.

Respectfully submitted,

FORD O'BRIEN LANDY LLP

By: */s/ Adam C. Ford*
Adam C. Ford
275 Madison Avenue, 24th Floor
New York, NY 10016
Tel.: (212) 858-0040 (main)
aford@fordobrien.com